

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

BRENDA ELLIOTT)	
Claimant)	
VS.)	
)	Docket No. 214,430
SYMBIOS LOGIC)	
Respondent)	
AND)	
)	
INSURANCE COMPANY STATE OF PENNSYLVANIA)	
Insurance Carrier)	

ORDER

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge John D. Clark on October 9, 1996.

ISSUES

The Administrative Law Judge awarded temporary total disability and medical benefits. Respondent contends the Administrative Law Judge exceeded his jurisdiction because claimant has failed to establish that carpal tunnel syndrome arose out of and in the course of her employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board finds that the decision by the Administrative Law Judge should be reversed. The Appeals Board agrees that the claimant has not, at this stage of the proceedings, established her carpal tunnel syndrome arose out of and in the course of her employment.

The record establishes that while claimant was off work for pregnancy leave she experienced symptoms of carpal tunnel syndrome. After the baby was born and before she returned to work, the symptoms subsided. Shortly after returning to work she then again experienced symptoms. When she complained to her supervisor, she was referred to

Dr. David Durand for an evaluation. She apparently returned to work from her pregnancy leave around April 29, 1996, and was seen by Dr. Durand on May 1, 1996. Dr. Durand stated his opinion regarding the cause of her symptoms as follows:

"It is my opinion that this patient's electrical abnormalities on nerve conduction testing are not work-related. I do not believe that working for less than one week would account for this person's electrically demonstrated abnormalities. She should see her personal physician regarding these abnormalities."

The record contains no other medical opinion regarding the cause of claimant's symptoms. Dr. Melhorn examined claimant in June 1996 and states:

"My feeling is she probably does continue to have some residual CTS component accentuated by pregnancy with regard to the right."

Claimant's counsel referred her to Dr. Murati. Dr. Murati's records included history that indicates her symptoms worsened after she returned to work. It does not, however, state an opinion in regard to the cause of her condition.

On the basis of the foregoing evidence, the Appeals Board concludes that claimant has failed at this point to meet the burden of establishing her injuries arose out of and in the course of her employment. The decision of the Administrative Law Judge should be reversed.

WHEREFORE, the Appeals Board finds that the Order of Administrative Law Judge John D. Clark dated October 9, 1996, should be, and the same is hereby, reversed.

IT IS SO ORDERED.

Dated this ____ day of January 1997.

BOARD MEMBER

c: Robert R. Lee, Wichita, KS
Kim R. Martens, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director